

# APPENDICES

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## APPENDIX A

### **Business and Professions Code § 2220.1**

as amended by SB 136 (Figueroa) (Chapter 909, Statutes of 2004)

- (a) (1) The [Department of Consumer Affairs] director shall appoint a Medical Board of California Enforcement Program Monitor prior to March 31, 2003. The director may retain a person for this position by a personal services contract, the Legislature finding, pursuant to Section 19130 of the Government Code, that this is a new state function.  
  
(2) The director shall supervise the enforcement program monitor and may terminate or dismiss him or her from this position.
- (b) The director shall advertise the availability of this position. The requirements for this position include experience in conducting investigations and familiarity with state laws, rules, and procedures pertaining to the board and with relevant administrative procedures.
- (c) (1) The enforcement program monitor shall monitor and evaluate the disciplinary system and procedures of the board, making as his or her highest priority the reform and reengineering of the board's enforcement program and operations and the improvement of the overall efficiency of the board's disciplinary system.  
  
(2) This monitoring duty shall be performed on a continuing basis for a period not exceeding two years from the date of the enforcement program monitor's appointment and shall include, but not be limited to, improving the quality and consistency of complaint processing and investigation, reducing the timeframes for completing complaint processing and investigation, reducing any complaint backlog, assessing the relative value to the board of various sources of complaints or information available to the board about licensees in identifying licensees who practice substandard care causing serious patient harm, assuring consistency in the application of sanctions or discipline imposed on licensees, and shall include the following areas: the accurate and consistent implementation of the laws and rules affecting discipline, appropriate application of investigation and prosecution priorities, particularly with respect to priority cases, as defined in Section 2220.05, board and Attorney General staff, defense bar, licensee, and patients' concerns regarding disciplinary matters or procedures, and the board's cooperation with other governmental entities charged with enforcing related laws and regulations regarding physicians and surgeons. The enforcement program monitor shall also evaluate the method used by investigators in the regional offices for selecting experts to review cases to determine if the experts are selected on an impartial basis and to recommend methods of improving the selection process. The enforcement program monitor shall also evaluate the effectiveness and efficiency of the board's diversion

program and make recommendations regarding the continuation of the program and any changes or reforms required to assure that physicians and surgeons participating in the program are appropriately monitored and the public is protected from physicians and surgeons who are impaired due to alcohol or drug abuse or mental or physical illness.

(3) The enforcement program monitor shall exercise no authority over the board's discipline operations or staff; however, the board and its staff shall cooperate with him or her, and the board shall provide data, information, and case files as requested by the enforcement program monitor to perform all of his or her duties. The provision of confidential data, information, and case files by the board to the enforcement program monitor at any time after the appointment of the monitor shall not constitute a waiver of any exemption from disclosure or discovery or of any confidentiality protection or privilege otherwise provided by law that is applicable to the data, information, or case files.

(4) The director shall assist the enforcement program monitor in the performance of his or her duties, and the enforcement program monitor shall have the same investigative authority as the director.

- (d) The enforcement program monitor shall submit an initial written report of his or her findings and conclusions to the board, the department, and the Legislature no later than November 1, 2004, and be available to make oral reports if requested to do so. The initial report shall include an analysis of the sources of information that resulted in each disciplinary action imposed since January 1, 2003, involving priority cases, as defined in Section 2220.05. The enforcement program monitor may also provide additional information to either the department or the Legislature at his or her discretion or at the request of either the department or the Legislature. The enforcement program monitor shall make his or her reports available to the public or the media. The enforcement program monitor shall make every effort to provide the board with an opportunity to reply to any facts, findings, issues, or conclusions in his or her reports with which the board may disagree.
- (e) The board shall reimburse the department for all of the costs associated with the employment of an enforcement program monitor.
- (f) The enforcement program monitor shall issue a final report prior to November 1, 2005. The final report shall include final findings and conclusions on the topics addressed in the initial report submitted by the monitor pursuant to subdivision (d).
- (g) This section shall become inoperative on January 1, 2006, and as of January 1, 2006, shall be repealed, unless a later enacted statute, which is enacted before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

## APPENDIX B

### Previous Studies relevant to MBC's Enforcement and Diversion Programs

(in chronological order)

California Medical Association and California Hospital Association, *Report on the Medical Insurance Feasibility Study* (1977).

David G. Warren and Richard Merritt (editors), *A Legislator's Guide to the Medical Malpractice Issue* (1976).

Auditor General of California, *Review of the Board of Medical Quality Assurance* (August 1982).

Auditor General of California, *The State's Diversion Programs Do Not Adequately Protect The Public From Health Professionals Who Suffer From Alcoholism or Drug Abuse* (January 1985).

Auditor General of California, *The Board of Medical Quality Assurance Has Made Progress in Improving Its Diversion Program; Some Problems Remain* (June 1986).

Arthur Young, *Board of Medical Quality Assurance: Final Report on a Management and Staffing Study of the BMQA Enforcement Program* (September 1986).

Assembly Office of Research, *"No Such Listing": Consumer Access to the Board of Medical Quality Assurance* (July 1988).

Legislative Analyst's Office, *Analysis of the 1989–90 Budget Bill* (February 22, 1989) at 97–99.

Commission on California State Government Organization and Economy ("Little Hoover Commission"), *Report on the Medical Care of California's Nursing Home Residents: Inadequate Care, Inadequate Oversight* (February 1989).

Center for Public Interest Law, *Physician Discipline in California: A Code Blue Emergency—An Initial Report on the Physician Discipline System of the Board of Medical Quality Assurance* (April 1989).

Legislative Analyst's Office, *Analysis of the 1990–91 Budget Bill* (February 21, 1990) at 121–23.

Auditor General of California, *A Review of the Processing of Complaints Made to the Medical Board of California* (April 1991).

California Highway Patrol, Bureau of Internal Affairs, *Administrative Investigation of the Medical Board of California (Preliminary Report)* (January 11, 1993).

Schubert Associates, *Development of Complaint Classification and Risk Ranking System: Final Report to the Medical Board of California* (February 28, 1994).

State Auditor of California, *The Medical Board Needs to Maximize Its Recovery of Costs* (March 1995).

Medical Board of California, *Sunset Review Report* (October 1, 1997).

Joint Legislative Sunset Review Committee, *Review and Evaluation of the Medical Board of California* (April 1998).

Julianne D'Angelo Fellmeth, *Rehabilitating the Medical Board's Diversion Program*, 16:1 CAL. REG. L. REP. (Winter 1999) at 3.

Medical Board of California, *Sunset Review Report* (September 1, 2001).

Joint Legislative Sunset Review Committee, *Background Paper for the May 2002 Public Hearing and Final Recommendations of the Joint Committee* (May 2002).

Public Citizen, *Survey of Doctor Disciplinary Information on State Web Sites* (2002).

Public Citizen, *Ranking of State Medical Board Serious Disciplinary Actions in 2002* (2003).

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## APPENDIX C

### **MBC Enforcement Program Policy/Procedure Manuals and MBC-Generated Information Reviewed by the Monitor**

Enforcement Program General Operations Manual (November 2001)

Safety and Security Manual (April 2000)

Central File Room Procedure Manual (undated)

Enforcement Operations Manual (July 2002; revised throughout 2003–04)

Discipline Coordination Unit Procedure Manual Volumes I and II (undated)

Diversion Program Manual (undated)

Diversion Program Policy, Guidelines & Procedures (undated)

Individual Study Program for Expert Reviewers (October 2002)

Central Complaint & Investigative Control Unit Procedure Manual (September 2003; revised throughout 2003–04)

Citation & Fine Program Procedure Manual (undated)

Field Training Officer Program (Proposed) (undated)

Deputy in the District Office Program Handbook (undated)

Manual of Model Disciplinary Orders and Disciplinary Guidelines (9<sup>th</sup> Ed. 2003)

Central Complaint Unit Medical Consultant Procedure Manual (November 2000; revised July 2002; revised September 2004)

Probation Operations Manual (November 2003)

Investigation Activity Report (IAR) Intranet Users' Guide (January 2004)

Search Warrants (California District Attorneys Association publication dated 1995)

Medical Consultants' Reference Book (September 1996)

Medical Consultant Information Booklet (1999)

Medical Board of California 1990–91 Annual Report

Medical Board of California 1991–92 Annual Report

Medical Board of California 1992–93 Annual Report

Medical Board of California 1993–94 Annual Report

Medical Board of California 1994–95 Annual Report

Medical Board of California 1995–96 Annual Report

Medical Board of California 1996–97 Annual Report

Medical Board of California 1997–98 Annual Report

Medical Board of California 1998–99 Annual Report

Medical Board of California 1999–2000 Annual Report

Medical Board of California 2000–01 Annual Report

Medical Board of California 2001–02 Annual Report

Medical Board of California 2002–03 Annual Report

Medical Board of California 2003–04 Annual Report

Department of Consumer Affairs Statistical Profile - Fiscal Year 1998/99 (excerpt)

Department of Consumer Affairs Annual Report 1992–93 (excerpt)

Department of Consumer Affairs Annual Report 1993–94 (excerpt)

Medical Board of California Strategic Plan 2002

Medical Board of California Performance Measurement / Indicator Report (Jan–Feb 2003)



Medical Board of California Performance Measurement / Indicator Report (May 2003)

Medical Board of California Performance Measurement / Indicator Report (Jul–Aug 2003)

Medical Board of California Performance Measurement / Indicator Report (Nov 2003)

Medical Board of California Performance Measurement / Indicator Report (Jan. 2004)

Medical Board of California Performance Measurement / Indicator Report (May 2004)

Medical Board of California Performance Measurement / Indicator Report (July 2004)

